



PATENT

Attorney Docket No.: 09282.0044-00000

SAP Reference No. 2003P00126US01

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of: )  
Holger BOHLE ) Group Art Unit: 3629  
Application No.: 10/772,081 ) Examiner: Shaun D. SENSENIG  
Filed: February 3, 2004 ) Confirmation No.: 1661  
For: CURRICULUM MANAGEMENT SYSTEM ) **Mail Stop AF**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Applicant requests a pre-appeal brief review of the rejections under 35 U.S.C. § 103(a) in the Final Office Action mailed July 22, 2009, the period for response to which has been extended through November 23, 2009 (November 22, 2009 being a Sunday) by a Petition for Extension of Time of one month and fee payment filed herewith. This Request is being filed concurrently with a Notice of Appeal, in accordance with the Official Gazette Notice of July 12, 2005.

A pre-appeal brief review of the rejection set forth in the Final Office Action is proper because: (1) the application has been at least twice rejected; (2) Applicants have concurrently filed a Notice of Appeal (prior to filing an Appeal Brief); and (3) this Pre-Appeal Brief Request for Review is five (5) or less pages in length and sets forth legal or factual deficiencies in the rejections. See Official Gazette Notice, July 12, 2005.

### **REMARKS**

In the Final Office Action<sup>1</sup>, the Examiner rejected claims 9-16 under 35 U.S.C. § 101<sup>2</sup>, rejected claims 1-6 and 9-14 under 35 U.S.C. § 102(a) as being unpatentable over U.S. Patent No. 5,692,125 ("*Schloss*"), rejected claims 7 and 15 under 35 U.S.C. § 103(a) as being unpatentable over *Schloss* in view of "The Columbia Institute e-Campus School Policy Manual, November 2002" ("*Columbia*"), and rejected claims 8 and 16 under 35 U.S.C. § 103(a) as being unpatentable over *Schloss* in view of U.S. Patent No. 6,099,320 ("*Papadopoulos*").

Applicant respectfully traverses the rejection of claims 1-6 and 9-14 under 35 U.S.C. § 103(a) as unpatentable over *Schloss*. A *prima facie* case of obviousness has not been established.

Independent claim 1 calls for a combination including, for example, "determining whether the booking represents an individual booking or a curriculum booking" and "processing the modification to the booking based on at least whether the booking represents an individual booking or a curriculum booking" (emphases added). The Office Action alleges that *Schloss* teaches these elements. Final Office Action, p. 4. However, this is not correct.

Specifically, the Office Action cites column 11, lines 9-12 of *Schloss* for support of its allegation, asserting that *Schloss* teaches "check[ing] to see if there are any subsequent connected events and processes accordingly." Final Office Action, p. 4. Even if *Schloss* could be reasonably argued to present this teaching, which Applicant does not concede, the "checking" steps of *Schloss* are not performed when modifying an event or events, rather, they are performed "at scheduling time to schedule an event group 260 or event 210." *Schloss*, col. 10, ll. 63-65, see, also, col. 11, ll. 9-24. The portion of *Schloss* cited by the Office Action has nothing to do with a "modification" process.

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<sup>1</sup> The Final Office Action may contain statements characterizing the related art, case law, and claims. Regardless of whether any such statements are specifically identified herein, Applicant declines to automatically subscribe to any statements in the Advisory Action.

<sup>2</sup> In an Advisory Action mailed October 20, 2009, the Examiner indicates that this rejection has been overcome by a Response filed October 7, 2009.

In addition, when asserting that *Schloss* teaches "determining whether the booking represents an individual booking or a curriculum booking," the Office Action also cites column 11, lines 9-12 of *Schloss* as support, alleging that *Schloss* teaches "check[ing] to see if the first event has any subsequent connected events: no would show an individual booking and yes would show a curriculum booking." Final Office Action, p. 4. Even if this allegation were correct, which Applicant does not concede, *Schloss* does not use such a checking result to modify the event.

In fact, even if *Schloss* could be reasonably argued to teach modifying an event or events, which Applicant does not concede, *Schloss* specifies that whether to perform these modifications is based on whether one or more "dynamic conditions" are satisfied. *Schloss*, Abstract. Further, *Schloss* teaches that "dynamic conditions" are "data value ranges" (*Schloss*, col. 2, l. 38), and particularly that "[d]ynamic conditions are conditions (and/or data) that can vary between the schedule time 251 and the performance time (256, 277). Typically, whether the dynamic condition is satisfied or not can not be determined until close to performance time" (*Schloss*, col. 4, ll. 61-65, *emphases added*). *Schloss* also presents some examples of dynamic conditions. See, e.g., *Schloss*, col. 10, ll. 37-43. Apparently, the checking results discussed in column 11, lines 9-12 of *Schloss* (and alleged by the Office Action as corresponding to the claimed "individual booking" and "curriculum booking"), which are obtained "at scheduling time to schedule an event group 260 or event 210" (*Schloss*, col. 10, ll. 63-65, *emphasis added*), are not dynamic conditions. Accordingly, even if *Schloss* taught "modifications," which Applicant does not concede, none of these "modifications" is performed based on whether the event is "individual booking" or "curriculum booking."

In view of the above, *Schloss* does not teach or suggest at least "processing the modification to the booking based on at least whether the booking represents an individual booking or a curriculum booking" as recited in claim 1 (*emphases added*).

Moreover, independent claim 1 further recites "scheduling a booking of a course to be taken by a learner, wherein the scheduling comprises generating an attendance link that associates the learner with the course, the attendance link identifying whether the course is associated with a corresponding curriculum" and "determining whether the

booking represents an individual booking or a curriculum booking based on the generated attendance link."

The Office Action concedes that *Schloss* does not explicitly disclose these elements. See Final Office Action, pp. 5-6. However, the Office Action then alleges that "it would have been obvious to one of ordinary skill in the art, at the time of the invention to have included" the above-noted elements. See Final Office Action, pp. 5-6. As support for this allegation, the Office Action cites the *KSR* decision, quoting that "[t]he combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results." Final Office Action, p. 5 and p. 6.

However, the proposition cited by the Office Action is not applicable because the Office Action has not demonstrated that the elements sought to be combined are "known." Applicants submit that the Office Action has made a generalized statement without any documentary evidence to support it. Applicant traverses the Examiner's apparent taking of "Official Notice," noting the impropriety of this action.

Therefore, the Office Action has neither properly determined the scope and content of the prior art nor properly ascertained the differences between the prior art and the invention of independent claim 1. Moreover, there is no motivation for one of ordinary skill in the art to modify the teachings of the reference to achieve the claimed combinations. Thus, no reason has been clearly articulated as to why claim 1 would have been obvious to one of ordinary skill in the art in view of the prior art. Accordingly, a *prima facie* case of obviousness has not been established with respect to claim 1, and claim 1 is allowable over *Schloss*.

Independent claim 9, although different in scope from independent claim 1, recites similar elements and is therefore also allowable over *Schloss* for at least reasons similar to those set forth above for independent claim 1.

Claims 2-6 and 10-14, which require similar elements to claim 1 or 9, are likewise allowable.

Applicant respectfully traverses the rejection of claims 7 and 15 under 35 U.S.C. § 103(a) as unpatentable over *Schloss* in view of *Columbia*, and the rejection of

claims 8 and 16 under 35 U.S.C. § 103(a) as unpatentable over *Schloss* in view of *Papadopoulos*. A *prima facie* case of obviousness has not been established.

Claims 7, 8, 15, and 16 depend from claim 1 or 9, and thus include all the elements thereof, such as the above-noted elements that are not disclosed in or suggested by *Schloss*. The Office Action asserts that *Columbia* discloses the elements recited in claims 7 and 15 (Final Office Action, pp. 8-9) and that *Papadopoulos* discloses the elements recited in claims 8 and 16 (Final Office Action, pp. 9-10). Even if these assertions were correct, which Applicant does not concede, *Columbia* and *Papadopoulos* still fail to teach the above-noted elements recited in claim 1 and similar elements recited in claim 9 and included in claims 7, 9, 15, and 16, and thus do not cure the deficiencies of *Schloss*.

Therefore, the Office Action has neither properly determined the scope and content of the prior art nor properly ascertained the differences between the prior art and the invention of claims 7, 8, 15, and 16. Moreover, there is no motivation for one of ordinary skill in the art to modify the teachings of the reference to achieve the claimed combinations. Thus, no reason has been clearly articulated as to why claims 7, 8, 15, and 16 would have been obvious to one of ordinary skill in the art in view of the prior art. Accordingly, a *prima facie* case of obviousness has not been established with respect to claims 7, 8, 15, and 16, and these claims are thus allowable.

#### CONCLUSION

In view of the foregoing, Applicant respectfully requests that the rejections be withdrawn and that all claims be allowed.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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Dated: November 5, 2009

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